

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

Johnson Brothers Liquor Company,  
Johnson Brothers Northwest  
Beverages, Inc. d/b/a Ed Phillips &  
Sons Co. of North Dakota, Johnson  
Brothers Famous Brands, Inc. (d/b/a  
Famous Brands and/or Western  
Wholesale),

Plaintiffs,

v.

Bacardi U.S.A., Inc., and Brown-  
Forman Corporation,

Defendants.

Case No. 0:11-cv-824 (ADM/JSM)

**Notice of Appeal**

**NOTICE IS HEREBY GIVEN** that Plaintiffs Johnson Brothers Liquor Company, Johnson Brothers Northwest Beverages, Inc. d/b/a Ed Phillips & Sons Co. of North Dakota, and Johnson Brothers Famous Brands, Inc. d/b/a Famous Brands and/or Western Wholesale hereby appeal to the United States Court of Appeals for the Eighth Circuit from the final judgment entered in this action on November 17, 2011, and from the order and decisions subsumed in that final judgment including but not limited to the order granting Defendant Brown-Forman Corporation's Motion to Dismiss First Amended Complaint and dismissing with prejudice Plaintiffs' Complaint. (ECF Nos. 73, 74.)

**PLEASE NOTE** that Plaintiffs have settled this matter with Defendant Bacardi U.S.A., Inc.; consequently, this appeal is directed to Defendant Brown-Forman Corporation.

The filing of this Notice of Appeal is timely pursuant to Federal Rule of Appellate Procedure 4 and the District Court's Order Granting Plaintiffs' Motion for Extension of Time to File Notice of Appeal (ECF Nos. 78, 81).

January 18, 2012

**Robins, Kaplan, Miller & Ciresi L.L.P.**

By: s/ Matthew L. Woods

Elliot S. Kaplan (#53624)

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## U.S. COURT OF APPEALS - EIGHTH CIRCUIT

## APPELLANT'S FORM A

Appeal Docket No. \_\_\_\_\_

## Appeal Information Form

To be filed with the Notice of Appeal

## STYLE OF CASE:

## COUNSEL: NAME, ADDRESS, AND TELEPHONE NUMBER

Johnson Brothers Liquor Company,  
Johnson Brothers Northwest Beverages,  
Inc. d/b/a Ed Phillips & Sons Co. of North  
Dakota, Johnson Brothers Famous Brands,  
Inc. (d/b/a Famous Brands and/or Western

Appellant/Appellee,

vs.

Elliot S. Kaplan  
Matthew L. Woods  
Robins, Kaplan, Miller & Ciresi, L.L.P.  
2800 LaSalle Plaza  
800 LaSalle Avenue  
Minneapolis, MN 55402  
(612) 349-8500

Brown-Forman Corporation

Appellant/Appellee

## COUNSEL: NAME, ADDRESS, AND TELEPHONE NUMBER

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LIST ISSUES ON APPEAL (For administrative purposes). You may indicate that this also serves as your statement of issues under FRAP 10(b)(3). ☐ Yes. ☒ No.

Whether the district court erred by granting Brown-Forman Corporation's Motion to Dismiss First Amended Complaint; and  
Whether the district court erred by dismissing Plaintiffs' Complaint with prejudice and without leave to amend.

## FOR LEAD COUNSEL ONLY

I ☒ have (☐ have not) discussed settlement possibilities on appeal with my client.

This appeal ☒ is (☐ is not ) amenable to settlement.

Submitted by: s/ Matthew L. Woods  
Signature of Lead Counsel

01/18/2012  
Date

## INSTRUCTIONS:

Filing of appellant's Form A is required to be submitted to the Clerk of the District Court with the Notice of Appeal (8 Cir. Rule 3B). If inadvertently omitted, appellant may file Form A directly with the Clerk of the Court of Appeals before appeal is docketed. Forms are available at the District Court Clerk's Office and may be obtained electronically at:

[www.ca8.uscourts.gov](http://www.ca8.uscourts.gov)

Copy 1 - Send to Appellee (together with an uncompleted Form B)

Copy 2 & 3 - Send to Clerk, District Court with Notice of Appeal or Eighth Circuit (see above)

Copy 4 - Retain

## Certificate of Service

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system on January 18, 2012, which will send a notice of electronic filing to the following:

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